

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 21ST JUNE 2007 / 31ST JYAISHTA 1929

CRP.No. 360 of 2007(A)

**AGAINST THE ORDER DATED 27/03/2007 EA.1566/05 IN EP.32/02
IN OS.208/1996 of PRL.SUB COURT,TRIVANDRUM**
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REVN. PETITIONER: DEFENDANT/JUDGMENT DEBTOR:

**N.RAJAGOPAL,
S/O.NARAYANAN VAIDYAR,
NARAYANA SADANAM,
KANJIRAMPARA,
THIRUVANANTHAPURAM.**

BY ADV. SRI.K.RAVEENDRAN

RESPONDENTS: PLAINTIFF/THIRD PARTY/CLAIMANT:

**1. HINDUSTAN NEWS PRINT LTD,
REPRESENTED BY THE COMPANY SECRETARY,
NEWS PRINT NAGAR PO,686 616
KOTTAYAM DIST.**

**2. M.C.GEORGE,
S/O.JOSEPH CHACKO,
T.C.3/527, GANDHI NAGAR,
MUTTADA,
THIRUVANANTHAPURAM.**

**3. S.RANI,W/O.RADHAKRISHNAN,
T.C.7/176, ARGEYARN,
KANJIRAMPARA,
THIRUVANANTHAPURAM.**

BY

**THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 21/06/2007, ALONG WITH WPC NO. 18700 OF 2007 THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

M.N. KRISHNAN, J.
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C.R.P. NO. 360 OF 2007 &
WPC 18700 OF 2007
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Dated this the 21st day of June, 2007.

ORDER

The revision petition is preferred against the order of the Subordinate Judge's Court, Thiruvananthapuram refusing to review the order passed by it and WPC 18700/07 is filed to quash Ext.P5. Ext.P5 is an order whereby the executing Court has closed the execution proceedings stating that the decree is satisfied. After hearing the learned counsel for the petitioner what emerges out is as follows:

2. The revision petitioner/writ petitioner had taken a loan from M/s Hindustan Newsprint Ltd. and others for the purpose of construction of a house and he was liable to pay the amount in installments. He committed breach of installments and therefore a suit was instituted for realisation of the amount. It is submitted that unfortunately he has to face disciplinary proceedings and his service was terminated against which the writ petition is pending before this Court now.

3. In order to raise funds he had executed a conditional sale deed in favour of the 2nd respondent with a stipulation to pay the amount within the stipulated period and he could not pay back the amount. So, it appears that the transfer has become absolute in favour of the 2nd respondent. 2nd respondent in turn transferred the property to the 3rd respondent and 3rd respondent had deposited the amount due under the decree in order to save her property and on the deposit of the same the executing Court recorded full satisfaction and closed the E.P. It is submitted by the learned counsel that against the transfer made by him in favour of the 2nd respondent, a suit is pending before the Subordinate Court, Thiruvananthapuram as O.S.137/01 to declare and set aside that document. Or in other words, the relief if allowed in O.S.137/01, will cancel the title of 2nd respondent and in turn of 3rd respondent. It is a matter that has to be adjudicated by the civil Court and decided and if ultimately the revision petitioner/writ petitioner succeeds he may get back the property and it has nothing to do with the

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WPC 18700 OF 2007**

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present E.P. at this stage. Therefore, these petitions lack merit and the same are dismissed with the above observations.

M.N. KRISHNAN, JUDGE.

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